

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JULY 23, 2001
HUGHES AUDITORIUM
6:30 P.M.

CLOSED SESSION

At 5:00 p.m., the regular meeting of the Malibu City Council convened. City Attorney Hogin announced that the purpose of the Closed Session was to discuss matters listed on the posted agenda pursuant to Government Code Sections 54956.9 (a), 54956.8, and 54957. The City Council recessed to a closed session.

CALL TO ORDER

Mayor House reconvened the meeting at 6:34 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Joan House, Mayor Pro Tem Jeffrey Jennings, Councilmembers Sharon Barovsky, Thomas Hasse, and Ken Kearsley.

ALSO PRESENT: Katie Lichtig, Acting City Manager; Christi Hogin, City Attorney; Barry Hogan, Planning Director; Chuck Bergson, Public Works Director; Barbara Cameron, Grant Writer; Rick Morgan, City Engineer; Lt. Bradstock; and Lisa Pope, Interim City Clerk

FLAG SALUTE

Lt. Bradstock led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin announced that the Council met in Closed Session at 5:00 p.m. for the purpose of discussing matters listed on the posted closed session agenda as follows:

Existing litigation per Government Code Section 54956.9 (a):

1. Gibbs v. City of Malibu
Los Angeles County Superior Court Case No. BS0593621
2. Lavine v. City of Malibu
Los Angeles County Superior Court Case No. SS 008071
3. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331

4. Hoffman v. City of Malibu
Los Angeles County Superior Court Case No. SC061012
5. Malibu Township Council v. City of Malibu, et al.
Los Angeles County Superior Court Case No. SC067214

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

6. Property: Tract No. 46964 (5 lots)
City Negotiator: City Attorney
Property Negotiator: D.L. Malibu, Inc.

Personnel matters pursuant to Government Code Section 54957:

6. Public Employee Performance Evaluation
Title: City Treasurer

City Attorney Hogin announced that the Council met in closed session and discussed each item listed on the posted agenda but took no reportable action.

APPROVAL OF AGENDA

MOTION Councilmember Hasse moved and Councilmember Kearsley seconded a motion to approve the agenda as posted. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

Interim City Clerk Pope reported that the agenda for the meeting was posted on July 13, 2001.

ITEM 1 CEREMONIAL/PRESENTATIONS

- A. Swearing in of Youth Commissioners

Interim City Clerk Pope swore in new members of the Youth Commission.

- B. Mother's Against Drunk Drivers (M.A.D.D.) Award presented to Jim Mee

Mayor House presented the Mother's Against Drunk Drivers (M.A.D.D.) Award

to Jim Mee. Deputy Mee accepted the award on behalf of M.A.D.D. and those supporting such. Members of the Sheriff's Department commended Deputy Mee.

ITEM 2 A. PUBLIC COMMENTS

Doug O'Brien and John Harlow deferred their time to Tom Fakehany.

Tom Fakehany announced that they appointed themselves as the Lily's Café Malibu Steering Committee to advise the Malibu City Council on what moneys to tax the citizens of Malibu and how to expend the gathered proceedings. He stated their first order of concern was to oppose the \$15 million general obligation bond issue and ensuing property tax proposed by the Malibu City Council for November 2001.

B. COUNCIL COMMENTS

City Attorney Hogin reported on the case of MTC v. City of Malibu and announced that MTC's motion for preliminary injunction was denied.

Councilmember Hasse congratulated the City Attorney on the win against MTC. He stated he attended the Farmer's Market on July 22, 2001 where Assemblymember Pavley held a public meeting. He participated in the City's 2020 Committee meeting.

Mayor Pro Tem Jennings stated he attended the Farmer's Market and spoke with Assemblymember Pavley. He reported on the recent Land Use Subcommittee meeting. He welcomed Mr. Fakehany to the meeting. He suggested the steering committee consider where the money would come from if the bond measure did not pass.

Councilmember Kearsley thanked Assemblymember Pavley for coming to Malibu. He commended Barbara Cameron for her work to secure funding for projects in Malibu.

Councilmember Barovsky thanked Assemblymember Pavley for listening to the concerns of Malibu residents. She encouraged residents to come meet their local Assembly person. She commented in support of the proposed bond measure and the need to obtain funding for the children. She congratulated the Youth Commissioners.

Mayor House indicated Mr. Harlow had submitted questions related to the bond measure. Interim City Clerk Pope stated she had responded to Mr. Harlow earlier in the day. Mr. Harlow stated he was satisfied with the response and thanked Ms. Pope. Mayor House stated the City needed to select an alternate for the League of California Cities.

City Attorney Hogin stated the Mayor and Mayor Pro Tem were the Representative and Alternate respectfully.

Mayor House announced the Book Fair at the Malibu Public Library on August 11 and 12, 2001.

Councilmember Kearsley announced the Malibu Arts Festival on July 27 and 28, 2001.

Mayor House discussed the recent COG meeting and requested the Council support the 101 Corridor for bus rapid transit service.

CONSENSUS

By consensus, the Council determined to write a letter of support for rapid transit service.

Mayor House stated COG would begin working on the Z-traffic issue. She stated she had presented a commendation to Sue Gee for her efforts with the Santa Monica - Malibu Unified School District.

ITEM 3 **CONSENT CALENDAR**

MOTION Councilmember Kearsley moved and Councilmember Hasse seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 223, AN ORDINANCE OF THE CITY OF MALIBU ADOPTING CITYWIDE ZONE TEXT AMENDMENT NO. 01-002 AMENDING SECTION 9.3.55(E) OF THE MALIBU MUNICIPAL CODE REGARDING SIGN LOGOS.
Staff recommendation: Conduct second reading and adopt Ordinance No. 223.
2. Second Reading and Adoption of Ordinance No. 224, AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONE TEXT AMENDMENT NO. 01-004 AMENDING SECTION 9.1.20 OF THE MALIBU MUNICIPAL CODE BY IMPLEMENTING SECTION 9.1.23 THE CALVO EXEMPTION PROVISIONS OF THE COASTAL ACT AND APPROVING NEGATIVE DECLARATION 01-004. (CITY WIDE)
Staff recommendation: Conduct the second reading and adopt Ordinance No.

224.

3. Second Reading and Adoption of Ordinance No. 225, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MALIBU CALLING A SPECIAL MUNICIPAL BOND ELECTION FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY THE MEASURE OF ISSUING GENERAL OBLIGATION BONDS OF THE CITY FOR THE ACQUISITION, CONSTRUCTION AND COMPLETION OF OPEN SPACE AND PARK LANDS; DECLARING THE ESTIMATED COST OF THE MUNICIPAL IMPROVEMENT, THE AMOUNT OF THE PRINCIPAL OF THE INDEBTEDNESS TO BE INCURRED THEREFOR, AND THE MAXIMUM RATE OF INTEREST TO BE PAID THEREON; MAKING PROVISION FOR THE LEVY AND COLLECTION OF TAXES; FIXING THE DATE OF THE ELECTION AS NOVEMBER 6, 2001 AND THE MANNER OF HOLDING THE SAME; AND PROVIDING FOR NOTICE THEREOF.

Staff recommendation: Conduct the second reading and adopt Ordinance No. 225.

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve warrants

Staff recommendation: To allow and approve warrant demand numbers 16957 through 17046 listed on the attached register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 238 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$480,083.60.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes of June 11, 2001 and June 25, 2001.

5. Denial of claim for damages filed by Karen Wondra Grisham

Staff recommendation: Deny the claim filed by Karen Wondra Grisham

6. Denial of claim for damages filed by John Hendrickson
Staff recommendation: Deny the claim filed by John Hendrickson.
7. Proposed contract for Environmental Health Inspection Services agreement between the County of Los Angeles - Request for signature
Staff recommendation: Approve the standard agreement with the County of Los Angeles for health inspection services and forward to the County with the appropriate signatures.
8. Stormwater Treatment Facility at Malibu Lagoon - Purizer Agreement
Staff recommendation: 1) Authorize the Acting City Manager to execute a professional services agreement with Advanced Environmental Solutions (d/b/a Purizer) in the amount of \$85,485 to complete the treatment facility plus an annual maintenance agreement of \$15,000, and 2) Adopt Resolution No. 01-41 approving the application for grant funding from the California Integrated Waste Management Board (CIWMB) to pay for the completion of the treatment facility.
9. Acceptance of donation of "FingerPark" play equipment from Malibu Kiwanis for Malibu Bluffs Park
Staff recommendation: Accept the donation of a FingerPark play structure from the Malibu Kiwanis Club for installation at the Malibu Bluffs Park.
10. Recommended Chart of Work for Fiscal Year 2001-2002 Harry Barovsky Memorial Youth Commission
Staff recommendation: Approve the proposed chart of work for the Harry Barovsky Memorial Youth Commission for the fiscal year 2001-02.
11. Resolution requesting consolidation of the November 6, 2001 election
Staff recommendation: Adopt Resolution No. 01-40, requesting consolidation of election, setting forth the form of the question or proposition to be voted upon, and providing other matters.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Introduction of Ordinance No. 227 Amending Section 3.8.06 of the Malibu Municipal Code Changing the Designation of Floodplain Administrator
Staff recommendation: Introduce on first reading Ordinance No. 227 that changes the designation of Floodplain Administrator to the Public Works Director and direct the Acting City Manager to affect the appropriate changes to the City policies and operations.

Public Works Director Bergson presented the staff report.

MOTION Councilmember Kearsley moved and Councilmember Hasse seconded a motion to introduce on first reading Ordinance No. 227 that changes the designation of Floodplain Administrator to the Public Works Director and direct the Acting City Manager to affect the appropriate changes to the City policies and operations. The question was called and the motion carried unanimously.

B. Assessment District 98-1 (Big Rock Mesa)

Staff recommendation: Adopt Resolution No. 01-39 ordering collection of Contingent Assessment No. 031 and correction of amounts collected in 1999-2000 for Contingent Assessment Nos. 181, 198 and 256.

City Engineer Morgan presented the staff report.

Carolyn Wallace, representing Mr. and Mrs. Barlow, stated they purchased the property with the understanding that the assessment would be at \$7,000. She requested additional time to review the City Attorney's analysis of the corrected assessment values. She stated mitigation factors were included in the development to reduce water into the hillside. She requested additional time to consider the County's method of determining assessment values.

Mayor Pro Tem Jennings asked when the Barlow's acquired the property. Ms. Wallace stated in 1999. Mayor Pro Tem Jennings asked if the title had been reviewed. Ms. Wallace stated her clients had only received notification of the hearing on Thursday, July 19, 2001.

Mayor House asked when the property owners were notified of the assessment. City Engineer Morgan indicated the property owners were notified in May 2001. Mayor House asked if the matter was time sensitive. City Engineer Morgan explained that, in order for the assessments to be collected through tax roles, the deadline was August 10, 2001.

Councilmember Hasse asked why a 5 year payment plan was established. City Engineer Morgan stated it was an attempt at leniency and had been utilized for another district. Councilmember Hasse stated the matter was a mistake of the government.

Lorraine Stalberg stated she had recently purchased her property and was concerned about the increased assessment.

Councilmember Hasse suggested extending the payment period as long as possible. He

stated he would support Ms. Wallace's request to continue the matter due to government's mistake.

Councilmember Barovsky concurred that the matter should be continued.

Councilmember Kearsley asked if the well could be built without the contingent assessment. City Engineer Morgan stated the district voted to utilize the contingent assessment for the well.

Mayor Pro Tem Jennings stated the problem was that the district needed the money. He asked how the refund would be paid. City Engineer Morgan stated the money was placed in a restricted account. Mayor Pro Tem Jennings asked Ms. Wallace how much time she would require. Ms. Wallace stated continuance to August 13, 2001 was adequate.

Councilmember Hasse asked what was preventing installation of the extra dewatering well. City Engineer Morgan stated an additional \$75,000 was needed.

MOTION Mayor Pro Tem Jennings moved and Councilmember Hasse seconded a motion to continue the matter to August 13, 2001. The motion carried unanimously.

C. Consideration of the Local Coastal Plan

Staff recommendation: Approve Resolution No. 01-25, adopting the local coastal plan dated May 2001, as amended by Addendum A, certifying that the local coastal program is intended to be carried out in a manner fully in conformity with the Coastal Act and directing Staff to submit the LCP along with all required materials to the Coastal Commission.

Norm Haynie stated he was in complete support of the LCP and that it was important to move forward. He stated the proposed draft was consistent with the General Plan, Interim Zoning Ordinance and Land Use Plan of 1986. He expressed appreciation for the public workshops.

Ozzie Silna deferred his time to Corin Kahn.

Corin Kahn expressed opposition to the draft LCP. He disagreed that the ad hoc committee had provided the public the opportunity to provide comments. He reviewed the history of submittal of the LCP to the Coastal Commission. He stated the draft LCP was not consistent with the General Plan but was congruent. He summarized the significance of General Plan policies removed from the LCP. He discussed the importance of the Land Use Plan. He stated changes to the Plan were made without benefit of public

input. He stated he would not disclose who he was representing. He suggested the Council review his letter prior to adopting the plan. He stated there were violations of the Brown Act in preparation of the LCP.

Bob Purvey deferred his time to Corin Kahn.

Gil Segel deferred his time to Corin Kahn.

Michael Gardner deferred his time to Corin Kahn.

Patt Healy, representing the Malibu Coalition for Slow Growth, expressed concern about the 2001 LCP draft. She requested the Council not adopt the staff's recommendation. She stated the plan was not protective of the natural resources. She requested the City take time to prepare a plan that protects natural resources and does not destroy quality of life.

David Kagon stated his remarks were prepared prior to the decision on the Malibu Township Council motion. He stated Ms. Parker had indicated that all documents in the Coastal Commission file would be reviewed. He discussed the timeline for review of the Coastal Commission's LCP. He stated he had been informed that the Coastal Commission's LCP would not appear similar to any of the City's drafts. He urged all parties to collaborate and reach as much consensus as possible.

Sarah Dixon discussed the LCP Committee's efforts to draft a LCP. She stated the proposed plan was a "commercialization, urban sprawl plan". She requested the Council not approve the plan. She presented a matrix comparing the February 2000 and May 2001 plan.

Councilmember Kearsley discussed the Architects and Engineers Meeting at which Mr. Timm of the Coastal Commission stated the draft as submitted was unacceptable and Coastal could not review it on a word by word basis.

Councilmember Hasse asked if the City was obligated to include the General Plan in the LCP. City Attorney Hogin stated the City was not obligated. She explained that the General Plan and Interim Zoning Ordinance would be provided to the Coastal Commission with the draft LCP. Councilmember Hasse asked if the LCP protected the rural character of the City. City Attorney Hogin explained that the LCP did not change direction of the General Plan. Councilmember Hasse stated it was alleged that the draft LCP would eliminate the ERB. City Attorney Hogin stated the ERB was included in the General Plan

and Interim Zoning Ordinance. Councilmember Hasse stated it was alleged that the LCP would eliminate cumulative impact analysis. City Attorney Hogin stated that was incorrect and cumulative impact analysis would continue. Councilmember Hasse stated it was alleged that the 2001 draft contained only 9% of the 2000 draft. City Attorney Hogin stated she did not know the percentage. She stated the draft included the policies in the General Plan and all policies presented by the Coastal Commission. Councilmember Hasse discussed the lawsuit filed by the Malibu Township Council. He stated the LCP committee had spent 5-6 years to develop the draft. He stated time had run out and it was necessary to submit an LCP to the Coastal Commission. He stated the objective was to make it easier for residents of Malibu to go through the development process. He stated an approved LCP would assist in permit streamlining. He stated the ad hoc committee recommended that the Council adopt and submit the LCP to the Coastal Commission.

Councilmember Barovsky stated the ad hoc committee conducted 4 noticed meetings. She stated there was no public hearing before the City Council on the 2000 draft. She stated the General Plan and Interim Zoning Ordinance would not be lost. She recommended adoption of the plan.

Mayor Pro Tem Jennings stated the failure to include General Plan policies in the LCP would not remove policy. He provided an overview of the LCP process. He discussed the General Plan hearings. He stated the City was entirely within the Coastal Zone. He stated it was necessary to have consistency between the General Plan and LCP. He stated he would support the plan.

Councilmember Kearsley stated the matter was about local control. He stated he was hearing the message that the City should give up local control to the Coastal Commission. He stated he would support the draft for the people of Malibu.

Mayor House requested Jim Dantona comment on the City's efforts to submit the February 2000 LCP. Jim Dantona discussed the legislator's position on the City's LCP. Mayor House stated she had read the LCP. She discussed omissions from the 2000 draft and indicated no concern with those omissions. She stated the City was founded on the fact that people want their own destiny. She expressed disappointment that the community was not coming together.

MOTION Councilmember Hasse moved and Mayor Pro Tem Jennings seconded a motion to approve Resolution No. 01-25, adopting the local coastal plan dated May 2001, as amended by Addendum A, certifying that the local coastal program is intended to be carried out in a manner fully in conformity with the Coastal Act and directing Staff to

submit the LCP along with all required materials to the Coastal Commission. The question was called and the motion carried unanimously.

RECESS Mayor House called a recess at 8:20 p.m. The meeting reconvened at 8:35 p.m. with all Councilmembers present.

- D. APPEAL NO. 01-002 – An appeal of the Planning Commission’s decision to deny the project for a new single-family residence located at 32804 Pacific Coast Highway (Kempin) based on view blockage of the Pacific Ocean to a neighboring residence. Staff recommendation: Adopt Resolution Nos. 01-15(A-F) overturning the Planning Commission’s decision and approving Appeal No. 01-002.

Associate Planner Signo presented the staff report. He suggested adding a condition requiring fuel modification and biology approval.

Planning Director Hogan stated staff was still recommending approval of the project as submitted. He stated staff had provided an alternative to address the Planning Commission’s concerns.

Norm Haynie, on behalf of Paul Kempin, stated staff was recommending the project proposed and heard by the Planning Commission and was offering alternatives in the event that the Council did not like the project. He discussed the Planning Commission’s denial of the project. He presented overheads displaying vegetation clearance. He provided an overview of the proposed project and discussed the requested variances. He discussed erosion of the ESHA and the need to stop drainage.

Travis Longcore, Sierra Club / Wetlands Action Network, addressed the Council regarding the sufficiency of the negative declaration. He stated the analysis was not adequate to support the finding that the project did not create significant impacts.

Raymond Stewart stated the neighborhood averages were not appropriate because the subject lot was very small. He presented a photograph depicting blockage of his view. He requested the staking be properly installed.

Celine Austin stated they had an agreement that the home would not be above 18 feet from existing grade. She questioned the proposed 25 1/5 foot height with 2-foot cut.

Marny Randall stated Mr. Hennessy had been required to plant pine trees after the 1978 fire. She stated the Hennessy house was 5800 square feet. She discussed proposed fuel

modification and approved fuel modification to the Hennessy property.

Frank Angel, representing the Sierra Club and Wetlands Action Network, requested denial of the variance for ESHA setback and allowance of construction on slopes in excess of 2 ½ : 1. He stated appropriate environmental review for significant impacts had not occurred. He stated the Council could not make the necessary findings.

Norm Haynie responded to comments made by Mr. Angel. He discussed the Hennessy project recently approved by the City. He discussed removal of sensitive habitat and approval of fuel modification. He stated the riparian habitat would benefit by approval of the project. He stated they would lowering the home an additional foot so that no portion would be above the natural grade.

Scott Simons, project geologist, discussed testing and analysis that had occurred on the bluff. He discussed mitigation measures to reduce erosion. He stated he was in favor of maintaining a deep rooted plant system to maintain slope stability.

Councilmember Barovsky stated she viewed the site with Mr. Kempin and Ed Lipnick. She stated she discussed the project with Mr. Haynie.

Councilmember Kearsley stated he visited the site and met with Mr. Haynie to discuss the model. He stated he spoke with Ms. Randal about various aspects of the site.

Councilmember Hasse stated he met with Mr. Haynie to discuss the model and visited the site in 1996.

Mayor Pro Tem Jennings stated he met with Mr. Haynie and visited the site.

Mayor House stated she met with Mr. Haynie and spoke with Marny Randal and met with Mr. Kempin and visited the site in 1996.

Councilmember Kearsley asked what type of bluff stabilization would be used. Mr. Simons stated caissons were proposed for the home.

Mayor House called on Ted Vaill to discuss the Planning Commission's review. Mr. Vaill stated the Commission had discussed the project and 4 of the 5 members opposed the project due to view blockage. He expressed concern about geological issues on the site.

Councilmember Hasse asked the City's exposure regarding regulatory changes. City Attorney Hogin explained the City's legal requirements. Planning Director Hogan explained environmental review in the form of a negative declaration. Councilmember Hasse asked if staff had analyzed various minimum and maximum setbacks. Planning Director Hogan indicated staff's suggested setbacks for the project.

Mayor Pro Tem Jennings requested Mr. Haynie explain the height of the structure. Mr. Haynie outlined the height of the structure on the model presented to the Council. Mayor Pro Tem Jennings commented on the purpose of the 18 foot height limitation and that primary view blockage should be considered. He outlined the variance requests for setbacks. He asked whether any changes in the proposed alternative would result in an enhancement to the existing environmental situation.

Planning Director Hogan explained the differences between the proposed project and staff's alternatives.

Mayor House explained that the Council was at a de novo hearing. City Attorney Hogin explained that the Council could take all new evidence.

Councilmember Barovsky stated the turnaround was required. City Attorney Hogin confirmed that to be correct. She stated it would be necessary to meet Fire Codes in order to build a house on the property. Councilmember Barovsky expressed concern about the fuel modification situation. Planning Director Hogan discussed fuel modification in areas with sensitive habitat. He stated all habitat would be cleared absent a fuel modification plan.

Councilmember Kearsley requested Ms. Randall comment on vegetation removal. Ms. Randall explained that it would depend on the type of vegetation. She stated weed abatement required vegetation removal.

Mayor House asked how the rear yard setback was determined. Associate Planner Signo explained that the setback was measured from property line regardless of slope.

Planning Director Hogan stated the staff alternative was approximately 300 square feet less than the proposed project.

Councilmember Kearsley stated a large house was being proposed on a very small lot. He suggested limiting the seaward projection to 130 feet and the height to 18 feet.

Mayor Pro Tem Jennings asked what Councilmember Kearsley was proposing.

Councilmember Kearsley stated he was proposing an 18 foot limit from natural grade or finished grade whichever was lower. Mayor Pro Tem Jennings stated the lot was troubling. He stated the City's choice was to have something economically developed on the land or to buy it. He stated it was necessary to determine how big a house the Council wanted to put on the site. He stated he had asked the Planning Director whether reducing the size of the house would provide an environmental benefit which Planning Director Hogan stated it would not. He stated he was inclined to proceed with the staff recommendation to approve the project, including the 10 foot setback.

Councilmember Barovsky concurred with the staff recommendation including the 10 foot setback.

Mayor House stated it was too much house for the location. She stated the visual impact from Pacific Coast Highway was too great. She supported the proposed height, pulled back from top of slope with variances needed for Fire Department turnaround. She suggested adding a fuel modification plan and restoration and maintenance of the ESHA with the remainder of the property deeded as open space.

Councilmember Hasse discussed the complications of the site. He stated he felt reducing structure size would environmentally benefit the site.

Mayor Pro Tem Jennings stated much of square footage was underneath the hammer head and not visible.

MOTION Councilmember Kearsley moved and Mayor House seconded a motion to deny the site plan approval for increased height above 18 feet.

Planning Director Hogan explained the effect of denial of the site plan review.

Mayor House stated the rationale was to reduce the size of the home on the small lot.

The question was called and the motion carried 4-1, Mayor Pro Tem Jennings dissenting.

MOTION Councilmember Kearsley moved and Mayor House seconded a motion to approve the variance consistent with Resolution No. 01-15A adding a condition to reflect allowance of the 10-foot setback from the ESHA. The question was called and the motion carried unanimously.

MOTION Councilmember Kearsley moved and Mayor House seconded a motion to direct staff to

bring back resolutions approving the variance to allow relief for building on slopes greater than 2 ½ :1 and setback from the 1:1 slope. The question was called and the motion carried unanimously.

MOTION Councilmember Kearsley moved and Mayor House seconded a motion to bring back a resolution granting the requested variance for front yard setback. The question was called and the motion carried unanimously.

Planning Director Hogan stated fuel modification and vegetation restoration were included in the conditions of the project.

Mayor House requested reordering the agenda to move Items 6.A. and 6.B. forward on the agenda. The Council concurred.

ITEM 6 NEW BUSINESS

A. Consideration of Marine Life Protection Act Draft Map of Southern California Marine Protected Area Sites

Staff recommendation: Review attached draft map of Marine Protected Areas as applicable to Malibu prepared by the California State Department of Fish and Game and direct staff to represent the City's interests at a July 25, 2001 public hearing concerning draft map.

Jim Dantona presented the report. He presented a copy of AB1673 extending the time period for development of maps. He suggested attending workshops and public hearings prior to the Council taking a position.

Acting City Manager Lichtig discussed the Council's previous action on a marine refuge. She distributed a map overlay of the Council's previous policy and the proposed map.

Mary Frampton thanked the past City Council for adopting the Malibu Marine Sanctuary resolution. She thanked the existing Council for its efforts to protect the Coastal waters. She thanked the State for instigating this recent proposal to protect various areas of the coastline. She stated Save Our Coast would like all 27 miles to be designated a marine sanctuary but should be grateful for the proposal.

Patt Healy, Coalition for Slow Growth, thanked all Councilmembers who had worked towards the protection of coastal waters. She thanked Mary Frampton and Save Our Coast for their efforts to protect the Coast.

Mr. Dantona suggested City staff with technical expertise attend the meeting on July 25, 2001.

Mayor House suggested staff determine the City's expert. Acting City Manager Lichtig stated the City had hired Dr. Ambrose to study the matter in 1996. Councilmember Barovsky stated Dr. Ambrose was part of the group creating the maps.

Councilmember Hasse suggested the Mayor or Mayor Pro Tem review Dr. Ambrose's report and that the Mayor attend or write a letter indicating the City's current position.

Councilmember Barovsky provided questions and responses she had received from the California State Department of Fish and Game.

Mayor Pro Tem Jennings suggested voicing the City's idea of increased protection around both sides of the Headlands.

Mayor House asked Mr. Dantona to request the Department of Fish and Game utilize Malibu for a pilot project.

A. Residential Drug Rehabilitation Facilities

Recommendation: Direct staff as deemed appropriate.

Mayor House stated the purpose was to submit language for possible legislation.

Louis Diblosi requested the Council make an immediate moratorium to stop drug rehabilitation centers and require all cities to determine local need. He stated the current facilities exceeded the need to serve the City of Malibu.

Jerome Ringler discussed Proposition 36 and stated the intent was to determine the community's needed base. He stated Malibu was a mecca for residential base for drug rehabilitation centers. He stated it was necessary for the City to provide a need base to the State to regulate licensing. He stated the City of Los Angeles would only permit 1200 beds contained in 200 separate facilities. He stated Malibu already had 430 beds. He suggested the Council adopt a resolution to assess need and place a moratorium on drug rehabilitation facilities until in City's needs were determined, whether the beds in Malibu were being used for Malibu residents, and to discuss establishment of residents with the State.

Rosemarie Ihde stated slope stability could not take the increased water usage. She stated

the drug rehabilitation facilities were a bad example for children. She expressed concern about increased traffic.

Joe Vana discussed speeding and increased traffic caused by the drug rehabilitation facilities. He suggested the Council create a task force to collect input from involved citizens to take to the legislators.

Bill Schwarz discussed the excessive water use by the drug rehabilitation centers. He discussed the potential failure of septic systems, excessive commercial traffic from vendors and meetings, deterioration of private and City streets, frequent speeding and reckless driving. He offered assistance to the Council.

Chuck Williams stated there were 7 facilities in Malibu. He discussed the most recent location at 19562 Pacific Coast Highway. He discussed services and events offered by Promises Malibu.

Sue Peck commended the Council for placing the item on the agenda. She recommended no rehabilitation facility be located within 1500 feet of another, a moratorium on additional facilities should be adopted pending a study or implementation of revised criteria for licensing, and consideration should be given to restrict facilities in geologically sensitive areas with limited road access.

Edward Vaill discussed the problem of drug rehabilitation facilities in Big Rock. He suggested Malibu carefully review the matter. He requested Promises allow review of the Rockcroft property.

Victoria Smart, Director of Communications for Promises Treatment Centers, discussed the purpose for opening Promises facilities. She stated mis-information had been provided by the public speakers. She requested additional time to address the information provided by the public. She explained the beds available in their various houses. She discussed the measures taken to address concerns of the residents. She discussed community outreach programs sponsored by Promises. She stated they were willing to work with the City and neighbors to come to solutions.

Councilmember Barovsky asked if there was a central eating facility. Ms. Smart stated residents sometimes walked to a main dinner facility. Councilmember Barovsky asked if Promises was willing to show the neighbors the facilities. Ms. Smart stated they were willing to show the facility but were limited by Federal law regarding privacy.

Councilmember Hasse asked the number of residents. Ms. Smart explained that there

were 3 homes with 5 residents and 1 house with 4 residents. She stated there could be 10-12 people, residents and staff at any one time, per location.

Councilmember Kearsley asked if people were brought in during the day for treatment. Ms. Smart stated day treatment occurred at the Pacific Palisades facility. Councilmember Kearsley asked what alumni night was. Ms. Smart explained that the alumni night was no longer at the Rockcroft facility.

Mayor Pro Tem Jennings discussed concerns with drug rehabilitation facilities in the Big Rock area. He suggested sending the information to staff to work up a report including reference to Health and Safety Code Section 11834 and the idea of a moratorium. He stated 1500 foot looked reasonable but needed to be back up with data relating to neighborhood impact including traffic and neighborhood character.

Mayor House stated she felt it was against city laws to have a business allowing outpatient care. She requested staff report back on a possible tax. Ms. Smart stated they were willing to give back to the community.

Acting City Manager Lichtig stated the matter could be brought back on September 10, 2001.

The Council directed staff to bring back information on the possibility of a moratorium on August 13, 2001.

Councilmember Barovsky stated the residents were concerned with traffic and geology issues. She discussed the State's intent for 6 bed facilities.

Councilmember Hasse asked if most of their patients were Malibu residents. Ms. Smart stated approximately 25% of their patients were Malibu residents.

MOTION Councilmember Hasse moved and Councilmember Kearsley seconded a motion to take new business after 11:00 p.m. The motion carried unanimously.

ITEM 5 OLD BUSINESS

- A. Revised Tentative Schedule for the City of Malibu Special Election concerning the issuance of General Obligation Bonds
Staff recommendation: Receive and file the revised schedule.

MOTION Councilmember Hasse moved and Mayor Pro Tem Jennings seconded a motion to receive and file the revised schedule. The motion carried unanimously.

B. Malibu Knolls Traffic Study

Staff recommendation: Adopt the Malibu Knolls Traffic Study and approve the selected Alternatives.

Public Works Director Bergson presented the staff report.

Ryan Embree, Public Safety Commission Chair, stated the Commission discussed the report over two meetings and provided suggested changes. He provided specific corrections necessary to the report.

Steve Uhring, representing the Malibu Knolls, indicated support for the traffic study results. He urged the Council to support the report.

MOTION Councilmember Hasse moved and Councilmember Barovsky seconded a motion to adopt the Malibu Knolls Traffic Study and approve Alternatives 1, 3, 5, 6 and 10 subject to funding. The motion carried unanimously.

ADJOURN At 11:46 p.m., Councilmember Barovsky moved and Councilmember Hasse seconded a motion to adjourn in memory of Linda Piper and Jack Lemon. The motion carried 4-0, Councilmember Barovsky absent.

Approved and adopted by the City Council of the City of Malibu on September 10, 2001.

JOAN HOUSE, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)